IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3930 of 2001
to
FIRST APPEAL No 3937 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT THRO' SPL. LAND ACQ. OFFICER
Versus
PARSHOTAMBHAI VISHABHAI

Appearance:
MR SUDHANSHU PATEL for Appellant Nos. 1-1/2
MR KM SHETH for Respondents

CORAM : MR.JUSTICE B.C.PATEL
and
MR.JUSTICE SHARAD D.DAVE

Date of decision: 03/09/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE B.C.PATEL)

#. Admit. Mr. K.M. Sheth, learned advocate waives service of notice of admission on behalf of the respondents.

#. At the request of learned counsel appearing for the State Government and the claimants, these appeals are taken up for final disposal.

#. Lands situated at village Haripura, Taluka - Kadi, District - Mehsana were acquired under the provisions of the Land Acquisition Act, 1894 (hereinafter to be referred to as "the Act"). Notification under Section 4 of the Act was published on 16.5.92. Notification under Section 6 of the Act was published on 7.11.92. The Land Acquisition Officer made an award on 30.9.94 awarding Re. 1.40 ps. per sq. mt. It may be noted that even a duster for cleaning scooter which would be of a size of 1 x 1 feet is not available in the market at the price of Re. 1.40 ps. but one has to pay more than Rs. 5.00 or Rs. 7.00 for even smaller size of duster and the Land Acquisition Officer has awarded Re. 1.40 ps. per sq. mt. Obviously, the claimants approached the Reference Court and the Reference Court though did not agree with the claim made by the claimants, considering the facts and circumstances of the case, however, awarded Rs. 12.80 ps. per sq. mt. for irrigated lands and Rs. 12.60 per sq. mt. for non-irrigated lands. It is against this award, the present appeals are filed.

#. The lands were acquired for Narmada Project. The lands were possessing excellent potentiality. The claimants were in a position to take crops thrice a year. They have produced 7 x 12 forms and the decisions of the court delivered at exh. 12. The trial court in para 17 tried to consider the amount of compensation on the basis of the yield basis. The trial court also made a reference to exh. 12 - judgment delivered by the Reference Court for acquisition of lands situated at village Sadra adjoining to village Haripura. Having a common boundary and the same fertility, it seems that the trial court has placed reliance on the same decision. The trial court has referred to the judgment of the Apex Court in the case of State of Madras v. A.M. Nanjan [AIR 1976 SC 473] and the judgment in the case of Shivlal Keshavlal Shah v. Additional Special Land Acquisition Officer [9 GLR 752] for the purpose of comparison. It is required to be noted that in the case on which reliance

is placed, notification under Section 4 of the Act was published on 3.7.89 while in the instant case, the notification under Section 4 of the Act was published on 16.5.92. After considering the decision of this Court in the case of Special Land Acquisition Officer vs. Motibhai Mohanbhai [1997 (2) G.L.H. 773], the Reference Court arrived at a conclusion that the price is required to be increased and accordingly, awarded compensation. Judgment on which reliance is placed has become final and no appeal has been preferred. Therefore, it could not be said that the trial court committed any error in relying on that decision. Considering both the aspects, trial court has arrived at just and proper conclusion and hence, no interference is called for. The appeals are dismissed accordingly with no orders to costs. The amount of award to be deposited in the trial court within a period of three months.

[B.C. PATEL, J.] [SHARAD D. DAVE, J.]